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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Written statement submitted by Liberation, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 April 1996]

1. The Japanese Government conceals materials concerning war crimes and protects war criminals.

2. After the Second World War, Japan's war crimes were tried by the International Military Tribunal for the Far East as well as by B- and C-class war crimes courts promoted by seven Allied countries. Thirty-four were charged with the crime of "forcing prostitution", of whom 30 were found to have been involved in the "comfort women" issue.

3. Liberation recently obtained a record which shows that American women also served as "comfort women". As many know, the Japanese military occupied the Guam Islands in December 1941. During that period, a Japanese civilian named Shinohara forced two local American women to serve Japanese soldiers as "comfort women" against their will. This offender was sentenced to 15 years of hard labour on charges of "forcing prostitution" by the local court.

4. This is just the beginning of the story. The original trial record has been preserved in the United States National Archives. A copy of this record has also been kept on microfilm in the National Diet Library in Japan. However, the problem is that, although the Government has its own materials concerning its war crimes, it refuses public access to them. For example, the Government directly interviewed officer Shinohara and wrote a research report on his case after the war. However, the material is not available to the public. The Government states that they refuse public access in order to protect the privacy of war criminals.

5. In July last year, the Special Rapporteur on violence against women, asked the Japanese Government to fully disclose materials and documents in its possession when she visited the country during her official mission. However, the Japanese Government turned down her request, saying, "there are materials but no records". This explanation does not make any sense and is not a rational excuse.

6. The United Kingdom, Germany and France have been continuing to send wartime criminals to trial. Only the Japanese guilty parties remain unpunished and untried. Moreover, Japan has been giving pensions to war criminals and their families even today. A large amount of State compensation has been annually allotted to them in accordance with the length of their military service plus the length of their imprisonment as war criminals. This kind of action is a violation of the San Francisco Peace Treaty of 1951 as Japan accepted the judgement of the war crimes trials by the Allied forces in article 11 of the Treaty. While granting a State pension to war criminals, the Government refuses its obligation to compensate victims of sexual slavery and tries to settle the matter through a private fund.

Points at issue and cause

7. The Government's negative response to the issue originates in its full denial of its legal responsibility for its past colonial rule of Korea and war crimes. This attitude can be clearly observed in remarks and acts of Cabinet ministers. During a parliamentary session in October 1995, the then Prime Minister Murayama said that the Korea-Japan Annexation Treaty of 1910, which allowed Japan to enslave Korea for 36 years, was "legally concluded".

8. The New York Times commented that Murayama's statement was "equivalent to the German Government's declaring that its invasion of France during World War II had been legal and amicable, because agreements were signed between Germany and the puppet government in Vichy". Meanwhile, the ruling Liberal Democratic Party's study group last summer passed to each LDP lawmaker a booklet which claims that militarist Japan saved Asia and that the annexation of Korea was carried out to promote the stability and peace of the East. Involved in the study group were leading LDP politicians including present Prime Minister Hashimoto.

9. The recruitment of "comfort women" started in the early 1930s, targeting Korean women under Japan's colonial yoke. With the expansion of Japan's aggressive war, the scope of sexual slavery was enlarged to other areas involving Asian, Dutch, American and Austrian women. The root cause lies precisely in Japan's colonial rule of Korea. However, Japan regards its old

treaties with Korea as "valid" and its recruitment of "comfort women" as "legal" (according to Japanese statements during the diplomatic normalization talks between the Democratic People's Republic of Korea and Japan).

10. Tokyo's claims have never been accepted under international law. For example, the United Nations International Law Commission in 1963 cited the Five-Point Treaty of 1905 between Japan and Korea and a treaty between Germany and Czechoslovakia in 1939 as typical examples of an invalid act by a State as they were concluded through acts of armed coercion. The 1905 treaty paved the way for the establishment of Japan's annexation of Korea in 1910. Germany declared in its diplomatic normalization treaty with Czechoslovakia in 1973 that the 1939 treaty was null and void from the beginning. This expresses a strong determination to repent and settle its past misconduct. On the other hand, Japan never retreated from its position that old treaties and recruitment of "comfort women" and forced labourers were valid and legal. If we follow the Japanese absurd theory, then past laws enacted by Nazi Germany could be legal and the massacres in Auschwitz valid. Japan is the only country in the world which refuses to repent its past colonial rule and aggression.

11. Liberation suggests that (a) the Commission should adopt a resolution approving the six-point recommendation to Japan made by the Special Rapporteur on violence against women in her report, and (b) in view of the Draft Articles on State Responsibility adopted by the United Nations International Law Commission in 1980, the United Nations should take strong measures against Japan which still maintains the stand that its past aggression, colonial rule and enslavement of other nations are legal.